

APPEAL NO. 032316
FILED OCTOBER 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 29, 2003. The hearing officer determined that respondent 2's (claimant) _____, compensable injury does not extend to include an injury to the claimant's upper and lower back. The appellant (subclaimant) appeals this determination. Respondent 1 (carrier) urges affirmance of the hearing officer's decision. The appeal file contains no response from the claimant.

DECISION

Affirmed.

The disputed issue in this case involved a factual question for the hearing officer to resolve. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The subclaimant takes issue with one of the hearing officer's statements and essentially contends that the alleged inaccuracy warrants reversal. In the Statement of the Evidence the hearing officer noted, "The claimant has a history of multiple claims for back and neck injuries and the initial medical records for the hernia injury of _____[,] do not reflect any complaints of neck, upper back or lower back pain." A review of the record reflects that the medical records do not document back pain until August 22, 2001, and, as such, we cannot agree that the hearing officer's aforementioned statement "shows a disregard for accurate record review" or warrants reversal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **GENERAL ACCIDENT INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Chris Cowan
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge